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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Ocean Garden Products, Inc.,

Plaintiff,

v.

Blessings, Inc., an Arizona corporation;
David Mayorquin, Abraham Mayorquin;
and ADAB Ocean Harvest, S. De R.L.
De C.V., a Mexican limited liability
corporation,

Defendants.

NO. 4:18-CV-00322-TUC-RM
4:19-CV-00284-TUC-FRZ
(Consolidated)

**NOTICE OF RULE 4.2 COVERED
PARTIES**

(Assigned to Hon. Rosemary Marquez)

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Blessings, Inc., an Arizona corporation;

Counterplaintiff,
v.
Ocean Garden Products, Inc., a
California corporation,

Counterdefendant.

Ocean Garden Products, Inc.,

Plaintiff,
v.
Blessings, Inc.; David Mayorquin;
Amanda Lopez Vergara; Abraham
Mayorquin; Viviana Lopez; ADAB
Ocean Harvest, S. De R.L. De C.V., a
Mexican entity; ADAB Ocean Harvest
LLC, an Arizona limited liability
company; and Pacific Ocean Harvest, S.
De R.L. De C.V., a Mexican entity.

Defendants.

The undersigned, counsel of record for Defendants, notifies the Court that the parties listed in the attached Schedule A invoke *Lang* and are therefore covered by Rule 4.2's prohibition on *ex parte* communications. The following is a non-exclusive list of reasons:

David Mayorquin, Abraham Mayorquin, Curt Reimann, Bob Spencer, Stephen Tidwell and Erin McGinnis all were decision makers whose acts could bind the company and from time to time were advised, and received privileged advice, from Blessings' attorneys. Although Blessings denies liability, each former employee or principal, to a varying degree, was either the decision-maker or carried out the financial and contractual

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1 actions that gave rise to OG's claims for breach of contract, fraud or fraudulent transfer.
 2 Curt Reimann acted as counsel to Blessings both before, during and after his tenure. In the
 3 case of Curt Reimann, Bob Spencer, Erin McGinnis and Deborah Saunders, each were also
 4 integral to the preparation of Blessings' financial documents and accounting records, upon
 5 which OG bases its claims for fraud and fraudulent transfer.

6 As to the balance of the employees, their acts or omissions gave rise (or in this case
 7 may have given rise) to the underlying litigation. Each was involved or supervised (as
 8 indicated) in the management of the production and quality of shrimp, upon which OG
 9 bases certain of its claims or defenses (as set forth in its papers and in the Order) and may
 10 have been involved in are potentially responsible for the alleged contamination or alleged
 11 defects in the Trader Joe's shrimp. OG's claims for breach of contract for the 18 unpaid
 12 invoices in 2018 directly arise from Trader Joe's rejection and refusal to accept shrimp it
 13 alleged failed to meet certain quality and ingredient specifications. Furthermore, Blessings'
 14 has based its defense of failure of mitigation on OG's failure to re-sell shrimp originally
 15 processed for Trader Joes. To the extent OG alleges the shrimp was defective and therefore
 16 not marketable or not saleable at full price, Blessings' processes and any alleged defect
 17 therein may be implicated and therefore arises from the acts or omissions of these former
 18 employees.

19 DATED this 10th day of January, 2020.

21 RUSING LOPEZ & LIZARDI, P.L.L.C.

22 *s/Jonathan M. Saffer*

23 Michael J. Rusing
 24 Jonathan M. Saffer
 25 Sarah S. Letzkus
 Rebecca K. O'Brien
 Attorneys for Defendants Blessings, Inc. and
 David Mayorquin

CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2020, I caused the attached document to be electronically transmitted to the Clerk's Office using CM/ECF System for filing and distribution to the following registered participants of the CM/ECF System:

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